

STANDARD (NON-EMERGENCY) RULE

ATTACHMENT A

**Universal Zero Waste Ordinance
City Manager's Rules**

March 28, 2016

I. Definitions

“Single Stream recyclable materials” is defined as any or all of the following materials mixed together in one container for collection, intended by the generator to be sorted, post-collection into separate recyclable commodities at a material recovery facility. Individual programs may specify a subset of these materials as acceptable for collection:

- Mixed office paper and pads
- Sorted direct mail
- Magazines and catalogs
- Telephone books
- Corrugated cardboard
- Newspapers along with any paper that comes in the newspaper
- Paperboard
- Glass containers
- Aluminum cans and foil
- Steel cans and empty aerosol cans
- Plastics bottles, tubs, jugs and jars (attached plastic caps OK)
- Aseptic milk cartons and juice boxes
- Large plastic clamshell and berry containers

“Compostable materials” is defined as any or all of the following materials mixed together in one container for collection. Individual programs may specify a subset of these materials as acceptable for collection:

- Tree trimmings
- Leaves
- Grass clippings
- Garden and plant trimmings
- Wood chips
- Cut flowers
- Untreated lumber
- Fruit and vegetable scraps
- Meat and bones

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- Coffee grinds and tea bags
- Low-grade paper (tissue paper, wax paper, non-foil wrapping paper, brightly-colored paper)
- Food-soiled paper (greasy or covered with food)
- Unbagged shredded paper (per program guidelines)
- BPI (Biodegradable Products Institute)-certified compostable products

“Clean fiber recyclable materials” are defined as corrugated cardboard, office paper, newsprint, or any other paper product separated by the generator prior to collection and intended to be sold to end-user markets without the need for further sorting.

II. **Accumulation of Trash, Recyclables and Compostables**

All property owners must maintain in effect a contract with one or more haulers providing for the removal of accumulated trash, recyclables and compostables from the property or business, beginning June 17, 2016 - one year from the date Council adopted the Universal Zero Waste Requirements. Property Owners must ensure all tenants have access to this collection service; if a tenant chooses to subscribe to its own trash, recycling and/or composting service, this is sufficient for compliance with the requirements of this code. Property owners are encouraged to allow tenant businesses to maintain their own contracts should they choose to do so.

III. **Special Trash Service Requirements during Six Day Review period**

Within the special trash service zone and during the designated student move-out period, Single family homes with automated curbside collection may be provided with regularly-scheduled recyclables and compostables collection provided that the recyclables container is of a sufficient size to prevent its contents from overflowing.

IV. **Reporting Requirements for Property Owners and Business Owners**

No sooner than June 2017, the City Manager may require businesses and/or property owners, to submit an Annual Zero Waste Report in an electronic format which will be provided by the City.

V. **Guidelines for Containers, Training and Signage for Property Owners and Business Owners**

Each collection container, cart or dumpster must have a sign that accompanies it. Each sign must contain one of the following words as a heading or title of the sign:

1. “Recycle,” “Recycling” or “Recyclables”
2. “Compost,” “Composting” or “Compostables” and
3. “Landfill” or “Trash”

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Each collection container, cart or dumpster – located both inside and outside a property – must have, placed at eye level, English and Spanish sign(s) or picture-only signs so as to be understandable to the majority of customers, contractors and employees of a business or property owner or manager. To the greatest extent possible, signs must also be understandable to the visually impaired or color-blind.

If a particular business caters to a population that communicates primarily in a language other than English or Spanish, signs may be compliant with this ordinance if they contain words in a different language, as long as they also contain pictures of materials commonly found in the businesses' recyclables, compostables and landfill-bound trash.

In office and retail settings as well as congregate care facilities, a business or property owner may be in compliance with this ordinance even if a compost container is not provided to each employee's desk or work station, in the front of a retail store, or in each residential apartment, as long as a compost collection container is located within a reasonable and convenient distance from each employee's desk or work station. Notwithstanding, all common kitchen, dining, meal preparation and break room areas must contain adequate containers for compostables everywhere containers are supplied for trash. Furthermore, all bathrooms must be provided with at least one container for compostables unless there is no paper towel waste generated because only cloth towels or electric hand dryers are provided for customer, employees' and the public's use. For kitchen, break room and bathroom areas located in shared common space between tenant businesses, these containers must be provided by the property owner, manager or its designee.

For hotels, each guest room must be provided with a recycling container, but it is not necessary to provide each guest room with a compost container. Furthermore, all custodial contractors must be trained to properly manage the recyclables from each guest room so it is properly prepared for recyclables collection.

Per Section VII of this Rule, for locations that generate a *de minimis* volume of trash, recyclables and/or compostables, an exemption may be granted in accordance with Section VII of this Rule that would allow a business or property owner to not provide a trash, recycling and/or compost container.

Training may be conducted by the property owner's or business owner's contracted recyclable or compostable materials hauler or another third party and shall include a mandatory physical inspection of the on-site collection system ensuring signs are firmly affixed, visible, clean and free of obstructions, and a review of the materials intended to be deposited in each container including recyclables, compostables and landfill-bound trash. New signs may be ordered free of charge from the City of Boulder (zerowaste@bouldercolorado.gov). Annually, a map must be provided to all tenants of the property that clearly indicates the location on the property of trash, recyclables and compostables containers.

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In addition to employees and tenants of the property, such training must also be conducted with any janitorial contractors, landscaping or other service contractors responsible for collection of trash, recyclables and/or compostables. Such training must be conducted annually in addition to any time there is a change to the contractor providing janitorial landscaping or other service contractors.

VI. Compliance Schedule

(a) “Property Owner Requirements for Recyclables and Compostables Collection” and “Property Owner Requirements for Accumulation of Trash Recyclables and Compostables” shall apply to all property owners within the City of Boulder beginning June 17, 2016 - one year from the date Council adopted the Universal Zero Waste Requirements.

(b) “Business Owner Requirements for Recyclables and Compostables Collection,” shall apply to all businesses existing within the City of Boulder by September 17, 2016.

(c) All new businesses and property owners must comply with these sections within thirty (30) days of operating within the City of Boulder.

VII. Exemptions

By June 16, 2016, the City will institute an exemption application process, through which businesses and property owners may apply for exemptions as listed in this subsection. Each application for an exemption will be considered on its own merit; a final determination will be made by the City Manager or the City Manager’s designee.

No sooner than June 17, 2017, the City Manager may require from businesses and/or property owners, an exemption application fee if such a fee is determined to be necessary to cover the costs of administering exemption applications.

Exemptions for businesses or property owners, either initial or renewal, will be for a period of one year. Property or business owners may re-apply for one additional exemption at the expiration of the initial granted exemption. To apply for an exemption, the applicant must demonstrate that they have considered all reasonable options and explain why none is viable.

The following exemption applications will require self-certification as detailed below, to be received by the City Manager no later than sixty days after the start of the compliance period established in section 6-3-16, “Applicability” or within 30 days of being issued a notice of violation of any provision of this chapter.

(1) A home-based business must comply with Title 9, Chapter 6-3 (e) Home Occupations and must show that the residential property owner or manager subscribes to trash,

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recyclables and compostables collection and the home-based business has access to use that service.

- (2) A businesses or property owner that hauls its own trash, recyclables or compostables must complete a Self-haul Certification Form as provided by the City of Boulder in order to demonstrate to the satisfaction of the City Manager the location to which and frequency with which the trash recyclables and/or compostables are hauled; as well as a sworn affidavit and a photo copy of a valid state-issued identification.
- (3) Property owners that share collection service with a neighboring property must complete a Shared Service Certification Form as provided by the City of Boulder. Such a form will be required to include at least the following: signatures of both the hosting property owner as well as the sharing property owner, contact information and photo copies of valid state-issued identification for each property owner, subscribed collection service levels and frequencies for any shared services, and the name of the hauling company with whom contract is held for shared collection services.
- (4) A business or property owner or manager may apply for an exemption based on extreme economic hardship in cases where the applicable property is the subject of a qualified tax lien sale or public auction due to property tax arrearages; the building is controlled by a court appointed receiver; or the building has been acquired by a deed in lieu of foreclosure. Alternatively, a business or property owner may submit three (3) years of federal tax returns and calculate a gross income average based on these tax returns, along with an estimate of the total annual costs to comply with the provisions of this Chapter, including documentation to support these annual costs.

The following exemption applications will require a site visit from the City of Boulder before the exemption will be considered by the City Manager:

- (1) A property or business owner that composts on site in compliance with all applicable laws pertaining to Title 6, Chapter 3, Section 6-3-6, "Compost piles permitted if not a nuisance."
- (2) A property or business owner that is applying for an exemption based on a sufficiently space constrained property that precludes compliance with the provisions of these sections.
- (3) Innovation exemption – a property or business owner may apply for an exemption if they are reusing or repurposing a significant portion of their waste stream.
- (4) Businesses that generate a *de minimis* volume of trash, recyclables or compostables must also submit an application to the City Manager and will require a waste audit from the City of Boulder before an exemption may be granted. *de minimis* volume is generally

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defined as less than 32 gallons of material generated per month; however, the property or business owner will be encouraged to share collection containers with adjacent properties where possible.

VIII. **Violation Process**

If the City Manager finds a violation of any provision of this chapter, the manager, after notice and an opportunity for hearing under the procedures prescribed by Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, may impose a civil penalty according to the following schedule:

- (a) For the first violation of the provision, \$500;
- (b) For the second violation of the same provision, \$1,000;
- (c) For the third and subsequent violations of the same provision, \$2,000; and
- (d) The city manager's authority under this section is in addition to any other authority the manager has to enforce this chapter, and election of one remedy by the manager shall not preclude resorting to any other remedy as well.
- (e) Violations of this chapter are also punishable as provided in Section 5-2-4, "General Penalties," B.R.C. 1981.

Two notifications will be issued prior to any finding of violation.

No civil penalties will be imposed earlier than June 17, 2017.

Notice under this subsection is sufficient if notices of violation are hand delivered, emailed, mailed, or telephoned to such person, or by posting on the premises.

IX. **Directing Materials to the Boulder County Recycling Center**

It shall be presumed that each property owner, property manager, residential customer, commercial customer or multifamily customer has designated both single stream and source-separated, clean fiber recyclable materials as defined by these rules to be hauled to the recyclables processing center owned by Boulder County or its successor in interest ("Boulder County Recycling Center"). As set forth below, under certain conditions this presumption shall not apply with respect to source-separated, clean fiber recyclable materials.

In accordance with the code, the intent of this rule is to prevent high grade recyclable materials from being diverted to recyclable processing centers other than the Boulder County Recycling Center, thereby undermining the public benefit and taxpayer investment in the Boulder County Recycling Center.

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This rule maximizes the different types of recyclable materials accepted – including the less profitable materials – while assuring the Boulder County Recycling Center continually assesses and adjust for market conditions. Therefore, the per-ton “hauler rebates” paid by Boulder County at its gate for source-separated, clean fiber recyclable materials, shall be structured as a revenue share, shall be posted on a monthly basis, and shall represent a tiered rebate structure so as to provide an economic incentive to encourage source separation and low levels of contamination in delivered recyclable materials.

The presumption in this rule shall apply to haulers who collect source-separated clean fiber recyclable materials that originate from business owners who have on site a dumpster for collection of office paper, corrugated cardboard or other source-separated, clean fiber recyclable materials. The only exception from this requirement applies to haulers that have in place a written contract dated June 15, 2015 or earlier, that presumes delivery of all source-separated, clean fiber recyclable materials and sets a price for the sale of such materials. In this case, the hauler shall notify the City Manager in writing of such a contract and an exemption will be granted for a period through the end of the existing contract term, from the hauler requirement to deliver to the Boulder County Recycling Center source-separated, clean fiber recyclable materials from customers who have on site a dumpster(s) for collection of said materials.

The presumption in this rule shall not apply with respect to source-separated, clean fiber recyclable materials that originate from business and/or property owners who, prior to April 17, 2016, own or lease a compactor for the purpose of processing and receiving revenue from clean fiber recyclable materials including but not limited to corrugated cardboard or high grade office paper.

Additionally, the presumption in this rule shall not apply with respect to source-separated, clean fiber recyclable materials that originate from business and/or property owners who have on site a baler for the purpose of processing and selling directly to markets, clean fiber recyclable materials including but not limited to corrugated cardboard or high grade office paper.

However, under no circumstances shall these exemptions affect a business or property owner’s requirements under Title 6 - Chapter 3, Title 6 - Chapter 12, or any other section of these rules.

Beginning in June 2016 and at least annually thereafter, any hauler that collects source-separated, clean fiber materials must report to the City the number of customers, type of material and associated tonnage of such material as well as the markets to which this material is delivered, whether or not this material is delivered to the Boulder County Recycling Center. Upon request by the City Manager, haulers shall produce receipts from the facilities or markets utilized.

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In cases of extreme weather conditions or other extenuating circumstances when the Boulder County Recycling Center is not open and accepting recyclable materials, a hauler may deliver its customers' recyclable materials elsewhere. If at any time, the Boulder County Recycling Center is equipped with an automated system that allows for unattended delivery of recyclable materials, this exception will no longer apply.

The exemptions outlined in this section of the rule may be updated by the City Manager from time to time.